

## REMARKS

Applicants thank Examiner for the courtesy shown to their attorney, Karen Harding during the December 30, 2003 telephone interview. Please consider the foregoing remarks.

Claims 15 and 16 stand rejected under 35 U.S.C. 102(b) as being anticipated by or in the alternative under 35 U.S.C. 103 as being obvious in view of WO98/18330 ("Sawan, et al."). Claims 15 and 16 have been canceled.

claims 1-14 stand rejected under 35 U.S.C. 103 as unpatentable over ("Nissen et al."), in view of EP 1,050,314 ("Barry et al.) and US 5,312,586 ("Stockel").

The claims as amended, more clearly recite that the lens of the present invention comprises "silver activated by treatment with an oxidizing agent." The word silver, when used alone, means elemental or metallic silver and has a CAS number 7440-22-4. Enclosed for Examiner's convenience are copies of pages from Hawley's Condensed Chemical Dictionary, 14<sup>th</sup> Ed., page 995 ("silver. CAS: 7440-22-4. Ag. Metallic element, atomic number 47"), and Kirk-Othmer Encyclopedia of Chemical Technology, 4th Ed., vol. 22, page 163 ("Silver [97440-22-4], Ag (at no. 47), is a white, lustrous, soft, malleable metal"). Copies of these pages are attached for Examiner's convenience. In the present application, Applicant has used the word "silver" in its ordinary meaning, an elemental metal.

"Words in claims are to be given their ordinary meaning in the absence of indication in the patent to the contrary." Gentex Corp., v. Donnelly Corp., 69 F.3d. 527, 530; 36 U.S.P.Q.2d 1667 (Fed. Cir. 1995). "Without an express intent to impart a novel meaning to claim terms, an inventor's claim terms take on their ordinary meaning. . . In this case the patent discloses no novel uses of claim words." York Products, Inc. v. Central Tractor Farm & Family Center, 99 F3d. 1568, 1572, 40 U.S.P.Q.2d 1619 (Fed. Cir 1996).

None of the references cited by the Examiner disclose or suggest lenses which comprise metallic silver which has been activated by an oxidizing agent.

Nissen et al. discloses Weflex 55 hydrogel lenses having a silver layer. There is no description of what the silver layer is or how it was applied. The most that one of skill in the art could take away from Nissen, is that the coating contained silver in some form.

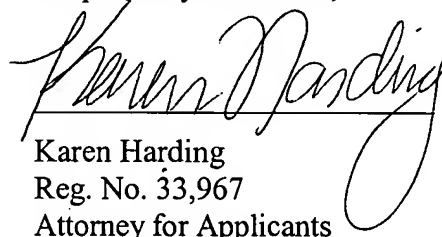
There is also no disclosure or suggestion that the silver layer was treated with an oxidizing agent.

Barry, et al. discloses that silver zeolites (not metallic silver) may be used as an antimicrobial agent in a polymeric material. There is nothing in Barry et al, which discloses or suggests that metallic silver should be treated with an oxidizing agent.

Stockel discloses a process for disinfecting a contact lens. Lenses containing an antimicrobial agent of any kind are not disclosed. Accordingly, none of the above references taken alone or in combination suggest a contact lens comprising metallic silver which has been activated by contact with an oxidizing agent.

The passage to allowance of the claims are respectfully requested. An early Notice of Allowance is therefore earnestly solicited. Applicants invite the Examiner to contact the undersigned at (904) 443-3074 to clarify any unresolved issues raised by this response.

Respectfully submitted,



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